

(Adopted June 28, 1990)(Amended May 3, 1991)(Amended December 7, 1995)  
(Amended April 20, 2001)(Amended November 9, 2001)(Amended May 3, 2002)  
(Amended September 8, 2006)

**PROPOSED AMENDED RULE 1309.1 -PRIORITY RESERVE**

(a) Priority Reserve

A Priority Reserve is established to provide credits for specific priority sources. The funding of the Priority Reserve shall be made quarterly on March 31, June 30, September 30, and December 31 or other schedule deemed practicable by the Executive Officer ~~or designee~~. The amount of this allocation shall not exceed the following amounts:

<u>Air Contaminant</u>	<u>Quarterly Allocation</u> <u>(lbs per day)</u>
Reactive Organic Gases (ROG)	500
Nitrogen Oxides (NOx)	250
Sulfur Dioxide (SOx)	60
Particulate Matter (PM10)	125
Carbon Monoxide (CO)	250

~~Notwithstanding the above, the Executive Officer shall transfer on a one time basis by January 1, 2002, the following to the Priority Reserve for use exclusively by Electric Generating Facilities, and return any unused portion of this allocation as of December 31, 2003, to the District's NSR account.~~

~~—— Sulfur Dioxide (SOx) 750 lbs/day~~

~~—— Carbon Monoxide (CO) —— 6,000 lbs/day~~

If the Executive Officer determines that credits for any air contaminant are not available for transfer from the District's NSR accounts, allocations to the Priority Reserve for that air contaminant shall be suspended. Allocations of that air contaminant to the Priority Reserve may resume if the Executive Officer determines there are sufficient credits available for transfer from the District's NSR accounts.

(b) Specific Priority Sources

The following priority sources will be qualified to draw ~~from a pool of credits established every quarter~~ credits from the Priority Reserve.

- (1) Innovative Technology  
Is innovative equipment or a process which:
  - (A) the applicant demonstrates will result in a significantly lower emission rate from the affected source than would have occurred with the use of BACT; and
  - (B) can be expected to serve as a model for emission reduction technology.
- (2) Research Operations  
Is an experimental research operation for which:
  - (A) the purpose of the operation is to permit investigation, experiment or research to advance the state of knowledge or the state-of-the-art; and
  - (B) a specific time limit is imposed by the Executive Officer ~~or designee~~, in no case exceeding two years.
- (3) Essential Public Service  
Is used to provide essential public service, provided the applicant:
  - (A) has provided all required internal offsets available by modifying sources to Best Available Retrofit Control Technology (BARCT) levels at the same facility; or
  - (B) demonstrates to the satisfaction of the Executive Officer ~~or designee~~ that the applicant owns or operates no sources within the facility which could be modified to BARCT levels to provide internal offsets.

For equipment not subject to any Regulation XI rule, application(s) for modifications providing offsets to satisfy subparagraph (A) of this ~~section~~paragraph shall accompany the application(s) for the new source(s). For purposes of this ~~section~~paragraph only, BARCT, as defined in the California Health and Safety Code Section 40406, shall not exceed any applicable District BACT cost guidelines and shall be determined as of the date that the application is deemed complete.
- (4) Electrical Generating Facility (EGF) In The Basin  
Is an in-Basin EGF project directly related to the production of electricity, and the applicant files a complete initial application for certification to the California Energy Commission or files a complete application for a permit to construct for which credits are sought during calendar years 2000, 2001, 2002, 2003, 2005, 2006, 2007 or 2008.~~facility that generates electricity for~~

~~its own use and is less than 10 Megawatts (MW); or is a facility less than 50 MegaWatts (MW) that generates not less than 30% of its electricity to pump water to maintain the integrity of the surface elevation of a municipality or significant portion thereof; or is a facility that generates electricity for distribution in the state grid system (net generator); such facility having submitted a complete application for certification to the California Energy Commission or permit to construct application during calendar years 2000, 2001, 2002, 2003 directly related to the production of electricity, and provided the facility:~~ An EGF for which the applicant files a complete application for which credits are sought during calendar years 2000, 2001, 2002 or 2003 shall be qualified to draw CO, SOx, or PM-10 credits only to the extent authorized by Rule 1309.1 as amended on May 3, 2002. An EGF for which the applicant files a complete application for which credits are sought in calendar years 2005, 2006, 2007 or 2008 shall be qualified to draw SOx, PM-10 and CO credits.

(5) Energy Project of Regional Significance (EPRS)

Is an EPRS for which the applicant files a complete application in calendar years 2005, 2006, 2007 or 2008 for a permit to construct for which credits are sought. An EPRS to be located in Coastal Waters adjacent to the District, subject to federal permitting, will qualify provided the applicant also submits a permit application to the District. An EPRS will be qualified to draw SOx, PM-10 and CO credits.

(6) Electrical Generating Facilities in Downwind Air Basins

Is an EGF located in a downwind air basin outside the District that may be qualified to draw VOC credits established every quarter provided:

- (A) the South Coast Air Basin is classified as being in a worse non-attainment status than the downwind air basin pursuant to Chapter 10 of the Health and Safety Code commencing with Section 40910; and
- (B) the EGF is located in a downwind air basin that is overwhelmingly impacted by emissions transported from the South Coast Air Basin, as determined by the state board pursuant to Health and Safety Code Section 39610; and
- (C) the applicant pays a mitigation fee pursuant to subdivision (f); and
- (D) the applicant certifies the application for a permit to construct has been deemed complete by the downwind district; and

(E) the cumulative amount of VOC credits issued pursuant to this paragraph does not exceed 5,479 lbs/day (2.74 tons per day and 1,000 tons per year); and

(F) the Executive Officer receives the written request for credits to be drawn before January 1, 2009.

Any credits obtained from the Priority Reserve pursuant to this paragraph shall be approved by resolution adopted, after taking into consideration the impact of the offset on air quality, public health and the regional economy, by the District Governing Board and the Governing Board of the district in the downwind air basin, or the respective Air Pollution Control Officers, if such authority has been delegated by their respective Boards.

(7) Non-Public Biosolids Processing Facility

(A) A biosolids processing facility that is not exclusively-publicly owned and publicly operated will be qualified to draw provided:

(i) the applicant complies with paragraph (b)(3); and

(ii) the applicant demonstrates to the satisfaction of the Executive Officer that the proposed purchase of credits from the Priority Reserve at a ratio of 1.2 to 1.0 together with credits otherwise obtained are at an offset ratio of 1.2 to 1.0;

(iii) the applicant pays a mitigation fee pursuant to subparagraph (f)(1)(B) for SO<sub>x</sub>, PM-10 and CO credits;

(B) A biosolids processing facility that received Priority Reserve credits as an Essential Public Service and subsequently ceases to be exclusively-publicly owned and publicly operated shall pay the mitigation fee pursuant to subparagraph (f)(1)(B) in effect at the time of the change of operator or at the last applicable rate in effect for the credits the essential public service received from the Priority Reserve adjusted to a 1.2 to 1.0 offset ratio or surrender to the AQMD an equivalent amount of credits at an offset ratio of 1.2 to 1.0.

(c) Requirements for an Electrical Generating Facility (EGF) or an Energy Project of Regional Significance (EPRS)

An EGF or EPRS shall not be qualified to draw credits from the Priority Reserve unless it meets all applicable conditions of this rule including:

- (A1) The owner or operator agrees to a permit condition requiring the facility to meets BARCT for pollutants received from the Priority Reserve for all existing sources at the facility prior to the operation of the new source(s) or at a schedule approved by the Executive Officer and no later than 3 years following the issuance of a permit to construct the new source(s); and all sources under common ownership within the District are in compliance with all applicable District rules, variances, orders, and settlement agreements; and
- (B2) The applicant pays a ~~non-refundable~~ mitigation fee of the following amounts for each pound per day of each pollutant obtained from the Priority Reserve pursuant to subdivision (f); and

PM 10 \_\_\_\_\_ \$25,000

SO<sub>x</sub> \_\_\_\_\_ \$8,900

CO \_\_\_\_\_ \$12,000; and

- (C3) The applicant conducts a due diligence effort (limited to costs not to exceed the mitigation fee for that pollutant) approved by the Executive Officer ~~or designee~~ to secure available ERCs for requested Priority Reserve pollutants. Such efforts shall include securing available ERCs including those available through state emissions banks or creating ERCs through SIP approved credit generation programs as available; and
- (4) Notwithstanding Rule 1303(b)(2)(A), the applicant for an in-Basin EGF that files a complete application for which credits are sought in calendar years 2005, 2006, 2007 or 2008 or the applicant for an EPRS demonstrates to the satisfaction of the Executive Officer that the proposed purchase of credits from the Priority Reserve together with credits otherwise obtained, is at an offset ratio of 1.2 to 1.0; and
- (5) Notwithstanding Rule 1303 (b)(2)(A), the applicant for an EGF located in a downwind air basin shall obtain credits at an offset ratio determined by the downwind air district; and
- (6) The Permit to Construct applicant agrees to a permit condition requiring the new source(s) to be fully and legally operational at the rated capacity within 3 years following issuance of a Permit to Construct or an initial California Energy Commission certification, whichever is later, subject to an extension granted by the Governing Board based upon demonstration by the applicant that the extension is necessary due to circumstances

beyond the reasonable control of the applicant. This paragraph does not supercede the provisions of SCAQMD Rule 205.

(d) Additional Requirements for an Electrical Generation Facility (EGF)

An EGF shall not be qualified to draw credits from the Priority Reserve unless the applicant:

~~(D)~~ ~~has the new source(s) fully and legally operational at the rated capacity within 3 years following issuance of a Permit to Construct or California Energy Commission certification, whichever is later, subject to an extension by the Executive Officer consistent with SCAQMD Rule 205; and~~

~~(E1)~~ Enters into a long-term (at least one year) contract with the State of California to sell at least 50% percent of the portion of the power which it has generated using the Priority Reserve credits and provided the Executive Officer determines at the time of permitting, and based on consultation with State power agencies, that the state of California is entering into such long-term contracts and that a need for such contracts exists at the time of permitting, if the facility is a net generator (this subsection paragraph does not apply to municipal utilities or joint power authorities); and

(2) For an EGF in the AQMD that submitted a complete application for a permit to construct for which credits were sought during calendar years 2000, 2001, 2002 or 2003, complies with all terms and conditions in any Executive Officer order, whether expired or not, relating to the EGF's access of Priority Reserve credits, whether such credits are used or not.

(5e) The following provisions shall apply to the Priority Reserve:

~~(A1)~~ Access to Priority Reserve Credits, except for those exclusively reserved EGFs located in a downwind air basin, shall be prioritized based on qualifying by complying with paragraphs (c)(1) through (c)(4) as an Essential Public Service or EGF and then, on the earliest date the Permit to Construct is to be issued that an application is deemed complete. Prioritization for EGFs located in a downwind air basin shall be based on the earliest date a written request is received by the Executive Officer

pursuant to subparagraph (b)(6)(F).

- (B2) Each facility shall maintain a balance of total Priority Reserve Credits obtained.
- (C3) Essential Public Services may, at the discretion of the Executive Officer ~~or designee~~, reserve Priority Reserve Offsets for up to three years to allow multiyear projects to be planned. The sum of such reservations shall amount to no more than 25 percent of the Priority Reserve allocation for those three years.
- (D4) The ~~Executive Officer~~AQMD Governing Board may determine that a specific project shall be given priority for access to the priority reserve based on imminent public health or safety need~~, regardless of date of application submitted.~~
- (E5) If a subject facility holds an Emission Reduction Credit (ERC), then that ERC must be used before access to the Priority Reserve is allowed.
- (F6) Allocations from the Priority Reserve shall not be banked or transferred.
- (G7) An aggregate total of 400 pounds per day for PM-10, 800 pounds for CO, and 200 pounds per day of SOx shall be exclusively reserved for use by Essential Public Services ~~for each~~ calendar years 2001, 2002, and 2003.
- (H8) Offset credits obtained from the Priority Reserve by an EGF may not exceed the allowable emissions level of the newly permitted unit(s).
- (I) ~~The total amount of SOx and CO credits that may be issued by the Executive Officer to EGFs from the Priority Reserve shall not exceed 750 lbs/day of SOx and 6,000 lbs/day of CO.~~
- (J9) The Executive Officer shall monitor the PM-10, CO and SOx balances in the Priority Reserve and in the event the balance of PM-10, CO or SOx is less than 500 pounds per day or a qualifying project will reduce the balance to less than 500 lbs/day, the Executive Officer may transfer up to 1,500 pounds per day of PM-10, CO or SOx respectively to the Priority Reserve; after it is determined the credits are available from the District's NSR account ~~This transfer shall be done at a public meeting.~~
- (10) Offset credits obtained from the Priority Reserve and used in the District may not be used for interpollutant trading.

(b) ~~Suspension of Health & Safety Code Section 42314.3~~

~~Pursuant to subsection (i) of Section 42314.3 of the Health & Safety Code, the District Board hereby suspends the applicability of Section 42314.3, since it~~

determines that this rule makes adequate offsets available at a reasonable price to EGFs.

(c) ~~Additional Requirements for Net Generators Accessing Priority Reserve Credits~~  
~~Any net generator accessing Priority Reserve Credits shall comply with all terms and conditions in any Executive Officer order, whether expired or not, relating to the generator's access of Priority Reserve credits, whether such credits are used or not.~~

(f) Mitigation Fees for Electrical Generating Facilities In the Basin, Energy Projects of Regional Significance, Electrical Generating Facilities in Downwind Air Basins, and Non-Public Biosolids Processing Facilities

(1) Applicants shall pay a mitigation fee of the following amounts for each pound per day of each pollutant obtained from the Priority Reserve:

(A) An in-Basin EGF where a complete initial application for certification to the California Energy Commission or a complete application for a permit to construct was filed in calendar years 2000, 2001, 2002 or 2003:

<u>PM-10</u>	<u>\$25,000</u>
<u>SO<sub>x</sub></u>	<u>\$ 8,900</u>
<u>CO</u>	<u>\$12,000</u>

(B) An in-Basin EGF or EPRS where a complete initial application for certification to the California Energy Commission or a complete application for a permit to construct was filed in calendar years 2005, 2006, 2007 or 2008, or a Non-Public Biosolids Processing Facility:

<u>PM-10</u>	<u>\$50,417</u>
<u>SO<sub>x</sub></u>	<u>\$15,083</u>
<u>CO</u>	<u>\$12,000</u>

(C) An EGF in a downwind air basin

<u>VOC</u>	<u>\$ 1,410</u>
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(2) The fee amounts in subparagraphs (f)(1)(B) and (f)(1)(C) shall be adjusted each year on July 1 by the change in the California Consumer Price Index for the previous calendar year. The Executive Officer shall be allowed to



use 5 percent of the mitigation fees collected in any one year for program administration.

(g) Mitigation Fee Refund

A refund of paid mitigation fees less 20 percent or \$2,000,000, whichever is less, shall be allowed only for in-Basin EGF's or EPRS that filed complete applications for which credits are sought in 2005, 2006, 2007 or 2008 or a Non-Public Biosolids Processing Facility provided the applicant submits a written request to the Executive Officer stating the reasons and provided: (1) the project requiring credits was cancelled within twelve months of purchase of the Priority Reserve credits due to circumstances that the Executive Officer determines is beyond the reasonable control of the applicant, and (2) a written request to the Executive Officer justifying the refund is received no more than 30 days after the project cancellation. The Executive Officer shall return the excess credits to the District's NSR account.